



Report of the Chief FOIA Officer  
Federal Open Market Committee

March 2013

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## **Report of the Chief FOIA Officer Federal Open Market Committee**

Pursuant to the “Guidelines for Chief FOIA Officer Reports to the Department of Justice,” the Federal Open Market Committee (FOMC) submits this Report regarding steps taken “to improve transparency in keeping with the President’s and Attorney General’s FOIA memoranda.” Matthew M. Luecke, Chief FOIA Officer of the FOMC, has directed and participated in a comprehensive review of FOMC FOIA operations. The results of that review are set forth in the report below, in accordance with the template provided by the Department of Justice.

### **Section I. Steps Taken to Apply the Presumption of Openness**

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period? Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

The President’s FOIA memorandum and the Attorney General’s FOIA Guidelines have been circulated to all personnel who handle Federal Open Market Committee (FOMC) FOIA requests, including all those who receive, process, review, and approve FOIA responses on behalf of the agency. An internal website to help raise the organizational profile of FOIA is accessible to all FOIA staff. New FOIA Service Center staff members, subject matter experts, and legal counsel have all attended briefings on agency FOIA procedures as appropriate.

FOMC FOIA Service Center and/or legal staff attended, or will be attending, the following Department of Justice training sessions since March 2012:

May 2012	FOIA Considerations in Banking Applications (Federal Reserve Board training)
May 8-9, 2012	“FOIA for Attorneys and Access Professionals”
July 25, 2012	“FOIA Requester Roundtable”

Feb. 26-27, 2013      “FOIA for Attorneys and Access Professionals”  
(scheduled)

May 7-8, 2013        “FOIA for Attorneys and Access Professionals”  
(scheduled)

The staff members who attended the training session re-circulated distributed training materials to, and reviewed the meeting’s key agenda items with, other FOMC FOIA Service Center staff.

2. Did your agency make any discretionary releases of otherwise exempt information?

Yes. The FOMC FOIA Service Center responded to 15 requests in FY 2012. Of these, 4 were full grants and 5 were partial grants. Thirty three percent of these full or partial grants (3 cases) included deliberative, pre-decisional items that could have been claimed as exempt from disclosure under the FOIA.

3. What exemptions would have covered the information that was released as a matter of discretion?

Exemption 5 – “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.”

4. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

As warranted by the requests received, in FY 2012 staff regularly consulted with subject matter experts to re-evaluate the need for and appropriateness of applying exemption 5. These consultations facilitated the discretionary disclosures noted in part 2 above.

As part of these disclosures, the FOMC FOIA Service Center disclosed internal messages and communications, or portions therein, that could have been withheld under exemption 5, but were released on a discretionary basis.

5. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

Each FOIA request undergoes a preliminary assessment by senior FOMC FOIA Service Center staff. If at any point during the research and response period, a denial or partial denial is suggested by subject matter experts and/or legal staff, the grounds for denial or partial denial are reviewed and verified by at least one FOMC officer and one FOIA attorney. No request is denied based on precedent; the FOMC FOIA Service Center conducts a *de novo* review of each request.

## **Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

Yes. The FOMC FOIA Service Center continues to receive IT support secured by the FOMC Secretariat for its ongoing information and database needs. In addition to the general, high-quality help desk support provided to all agency personnel, one full-time IT resource has been allocated to systems analysis and programming for FOMC document repositories.

2. Do your FOIA professionals work with your agency's Open Government Team?

FOMC FOIA Service Center staff members have worked in coordination with the Board of Governors of the Federal Reserve System to develop a Federal Reserve Open Government Directive.

3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration?

The FOMC FOIA Service Center receives approximately 30-40 FOIA requests per year. Service Center staff members meet regularly with the Service Center Manager to review the current case load, to consider what steps must be taken in order to respond to any open requests, and to assign appropriate resources to completing these responses. Two new staff members received sufficient training in late FY 2012, to enable them to process simple requests and assist on complex requests. Additionally, the Service Center has had ongoing conversations regarding further support from legal staff for complex requests which require consultation.

4. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, streamlining consultations, eliminating redundancy, etc.

The FOMC FOIA Service Center takes a proactive approach to processing FOIA requests. Requests are disseminated to appropriate end users quickly after receipt, and staff assigned to processing those requests closely monitor processing to ensure adequate internal time for review and determination during the initial 20-business day processing period. In FY 2012, the FOMC FOIA Service Center continued its use of document templates to accelerate the response time for common types of letters to requesters (e.g., referrals, full grants, and acknowledgement letters).

In addition, the FOMC publishes a host of historical information on its public website, including minutes and Records of Policy Actions back to 1936. This is intended to reduce, and has reduced, the number of FOIA requests we receive for this type of information.

### **Section III: Steps Taken to Increase Proactive Disclosures**

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2012 to March 2013). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of the records, datasets, videos, etc, that have been posted this past year.

The FOMC routinely releases documents following each FOMC meeting, and annually posts thousands of pages of additional material for public use. Since last year's report, pre-meeting staff analyses, meeting transcripts and meeting agendas have also been added for the year 2007. Finally, current meeting minutes, policy statements, and the Chairman's press conferences (text and video) are posted to the website on a regular basis. Altogether, the total number of pages of FOMC material available online is now up to nearly 140,000.

Transcript of the Federal Open Market Committee:

<http://www.federalreserve.gov/monetarypolicy/files/FOMC20070131meeting.pdf>

Minutes of the Federal Open Market Committee:

<http://www.federalreserve.gov/monetarypolicy/files/fomcminutes20121212.pdf>

Statement of the Federal Open Market Committee:

<http://www.federalreserve.gov/newsevents/press/monetary/20121212a.htm>

Chairman's Press Conference (video, transcript, and materials):

<http://www.federalreserve.gov/monetarypolicy/fomcpresconf20121212.htm>

<http://www.federalreserve.gov/mediacenter/files/FOMCpresconf20121212.pdf>

<http://www.federalreserve.gov/monetarypolicy/files/fomcproptabl20121212.pdf>

2. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?

Yes.

3. If so, provide examples of such improvements.

Continuing upon advances from FY 2011, a basic and advanced search capability for all FOMC documents on the agency's website, 100% of which have been rendered text-searchable, serves the public and the FOMC FOIA Service Center. Staff monitors search statistics to evaluate usage patterns and identify possible opportunities for additional material and for reconfiguring the website to facilitate document retrieval for frequently requested material. Staff has received positive feedback on its posted material, and continues to look for ways to improve.

4. Describe any other steps taken to increase proactive disclosures at your agency.

Staff actively consider whether particular materials (whether or not requested under FOIA) should be posted on the FOMC's website. As a result of this evaluation, we posted documents to our electronic reading

room this year that were simultaneously released in response to a complex FOIA request.

#### **Section IV: Steps Taken to Greater Utilize Technology**

##### *Electronic receipt of FOIA requests:*

1. Can FOIA requests be made electronically to your agency?

Yes.

2. If your agency is decentralized, can FOIA requests be made electronically to *all* components of your agency?

N/A.

##### *Online tracking of FOIA requests:*

3. Can a FOIA requester track the status of his/her request electronically?

The FOMC FOIA Service Center accepts status update requests via e-mail.

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

We provide requesters with custom responses that provide details about the status of their request.

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

In our customized responses, we provide the requester with a date to expect a potential response or, at least, an update on the current status of their request.

6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

N/A.



*Use of technology to facilitate processing of requests:*

7. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

The FOMC continues to take significant steps to facilitate overall FOIA efficiency (see details below).

8. If so, describe the technological improvements being made.

A large majority of FOMC records have been scanned and made text searchable, or were born digital. These records are routinely searched in response to incoming FOIA requests, through the digital repositories or file servers on which they reside. Specialized search tools have been created by the IT personnel who support the FOMC FOIA Service Center. A document sharing platform, which stores all correspondence associated with requests, was put in place, and continues to be employed extensively to conduct consultation with legal staff, the Chief FOIA Officer, and subject matter experts. IT staff performs de-duplication as appropriate.

**Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs**

1. a. Does your agency utilize a separate track for simple requests?

Yes.

- b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

Yes.

- c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

N/A.

2. a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

No, the backlog increased, due to several complex requests that could not be processed by the end of the fiscal year. The backlog in FY 2011 was merely one request.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

N/A. The FOMC had no backlog of administrative appeals in either year.

- c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

Yes, we closed the one pending request from FY 2011.

- d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

N/A. No administrative appeals were pending as of the end of FY 2011.

3. If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

The lack of reduction was not due to an increase of incoming requests, per se, but rather to an increase in incoming complex requests. See V.3.c below.

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?

The lack of a reduction in the request backlog was not due to a loss of staff.

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Yes, the pending requests are complex and require extensive legal review. Moreover, there were 6 additional complex requests processed this year, and only 3 simple requests, an atypically low number compared to recent years. Thus, the complexity of requests was the cause of our increased backlog.

d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

N/A.

Administrative Appeal Backlog:

a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

N/A.

b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

N/A.

c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

N/A.

d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

N/A.

4. OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Interim letters were provided regularly to indicate the status and potential response dates for the backlogged cases. For each of the backlogged cases, two letters had been provided by the end of FY 2012.

### **Use of FOIA's Law Enforcement "Exclusions"**

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?

No.

2. If so, what is the total number of times exclusions were invoked?

N/A.

### **Spotlight on Success**

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas.

As in recent years, in FY 2012 and FY 2013, the FOMC Secretariat added a large amount of content to the agency's website, completing a multi-year plan to proactively release important FOMC document series. As a result of this transparency initiative, more than 140,000 pages of historical and recent FOMC material are now available online.

Records of the FOMC's meeting deliberations for the 75 years of its existence are now not only available to the public through the agency's website, but have been rendered fully text-searchable and may be browsed by meeting date.

Staff continue to actively consider whether particular materials (whether or not requested under FOIA) should be made available through the agency's public website.

We continue to expect the FOMC Secretariat to post additional information on its website concerning the FOMC's actions and deliberations going forward. It is anticipated that the provision of the already large amount of readily-available electronic information will obviate the need for many formal FOIA requests.